

**TAX AND ENERGY DEVELOPMENT INCENTIVES AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill amends, enacts, repeals, and makes technical cross reference changes to provisions related to energy development, economic development, and revenue and taxation.

**Highlighted Provisions:**

This bill:

- ▶ codifies the targeted business income tax credit in the corporate and individual income tax code;
- ▶ requires the Office of Energy Development to report to the State Tax Commission certain information regarding tax credit certifications the Office of Energy Development issues to claim the renewable energy systems tax credit;
- ▶ repeals the Tar Sands Pilot Plant Act; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill has retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

**59-7-159**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

**59-7-605**, as last amended by Laws of Utah 2016, Chapters 369 and 375

**59-7-610**, as last amended by Laws of Utah 2015, Chapter 283

**59-7-614 (Effective 01/01/19)**, as last amended by Laws of Utah 2018, Chapters 426 and 436

**59-7-614.10**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

**59-10-137**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

**59-10-210**, as last amended by Laws of Utah 2015, Chapter 283

33 **59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283

34 **59-10-1009**, as last amended by Laws of Utah 2016, Chapters 369 and 375

35 **59-10-1014 (Effective 01/01/19)**, as last amended by Laws of Utah 2018, Chapters 426  
36 and 436

37 **59-10-1037**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

38 **63N-2-213**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

39 **63N-2-304**, as last amended by Laws of Utah 2017, Chapter 352

40 ENACTS:

41 **59-7-624**, Utah Code Annotated 1953

42 **59-10-1112**, Utah Code Annotated 1953

43 REPEALS:

44 **63M-3-101**, as enacted by Laws of Utah 2008, Chapter 382

45 **63M-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

46 **63M-3-103**, as renumbered and amended by Laws of Utah 2008, Chapter 382

47 **63M-3-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

48 **63M-3-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382

49 **63N-2-305**, as last amended by Laws of Utah 2017, Chapter 352

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51 *Be it enacted by the Legislature of the state of Utah:*

52 Section 1. Section **59-7-159** is amended to read:

53 **59-7-159. Review of credits allowed under this chapter.**

54 (1) As used in this section, "committee" means the Revenue and Taxation Interim  
55 Committee.

56 (2) (a) The committee shall review the tax credits described in this chapter as provided  
57 in Subsection (3) and make recommendations concerning whether the tax credits should be  
58 continued, modified, or repealed.

59 (b) In conducting the review required under Subsection (2)(a), the committee shall:

60 (i) schedule time on at least one committee agenda to conduct the review;

61 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
62 under review to provide testimony;

63 (iii) (A) invite the Governor's Office of Economic Development to present a summary

and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-609;

(ii) Section 59-7-614.2;

(iii) Section 59-7-614.10;

(iv) Section 59-7-617;

(v) Section 59-7-619; ~~and~~

(vi) Section 59-7-620[:]; and

(vii) Section 59-7-624.

(c) On or before November 30, 2019, and every three years after 2019, the committee

shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-7-605;
- (ii) Section 59-7-610;
- (iii) Section 59-7-614;
- (iv) Section 59-7-614.7;
- (v) Section 59-7-614.8; and
- (vi) Section 59-7-618.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 2. Section **59-7-605** is amended to read:

**59-7-605. Definitions -- Tax credits related to energy efficient vehicles.**

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

(d) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(e) "Qualifying electric motorcycle" means a vehicle that:

- (i) has a seat or saddle for the use of the rider;
- (ii) is designed to travel with not more than three wheels in contact with the ground;
- (iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;
- (iv) is not fueled by natural gas;
- (v) is fueled by electricity only; and
- (vi) is an OEM vehicle except that the vehicle is fueled by a fuel described in

Subsection (1)(e)(v).

126 (f) "Qualifying electric vehicle" means a vehicle that:  
127 (i) meets air quality standards;  
128 (ii) is not fueled by natural gas;  
129 (iii) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity;

130 and

131 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in  
132 Subsection (1)(f)(iii).

133 (g) "Qualifying plug-in hybrid vehicle" means a vehicle that:

134 (i) meets air quality standards;  
135 (ii) is not fueled by natural gas or propane;  
136 (iii) has a battery capacity that meets or exceeds the battery capacity described in

137 Section 30D(b)(3), Internal Revenue Code; and

138 (iv) is fueled by a combination of electricity and:

139 (A) diesel fuel;

140 (B) gasoline; or

141 (C) a mixture of gasoline and ethanol.

142 (2) For a taxable year beginning on or after January 1, 2015, but beginning on or before  
143 December 31, 2016, a taxpayer may claim a tax credit against tax otherwise due under this  
144 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay  
145 Corporate Franchise or Income Tax Act, in an amount equal to:

146 (a) (i) for the original purchase of a new qualifying electric vehicle that is registered in  
147 this state, the lesser of:

148 (A) \$1,500; or

149 (B) 35% of the purchase price of the vehicle; or

150 (ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is  
151 registered in this state, \$1,000;

152 (b) for the original purchase of a new vehicle fueled by natural gas or propane that is  
153 registered in this state, the lesser of:

154 (i) \$1,500; or

155 (ii) 35% of the purchase price of the vehicle;

156 (c) for the original purchase of a new qualifying electric motorcycle that is registered in

157 this state, the lesser of:

158 (i) \$750; or

159 (ii) 35% of the purchase price of the vehicle; and

160 (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal

161 to the product of:

162 (i) the amount of tax credit the taxpayer would otherwise qualify to claim under

163 Subsection (2)(a), (b), or (c) had the taxpayer purchased the vehicle, except that the purchase

164 price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or (2)(c)(ii) is considered to be the value

165 of the vehicle at the beginning of the lease; and

166 (ii) a percentage calculated by:

167 (A) determining the difference between the value of the vehicle at the beginning of the

168 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as

169 stated in the lease agreement; and

170 (B) dividing the difference determined under Subsection (2)(d)(ii)(A) by the value of

171 the vehicle at the beginning of the lease, as stated in the lease agreement.

172 (3) (a) The board shall:

173 (i) determine the amount of tax credit a taxpayer is allowed under this section; ~~and~~

174 (ii) provide the taxpayer with a written certification of the amount of tax credit the

175 taxpayer is allowed under this section~~[-]; and~~

176 (iii) provide a duplicate copy of the written certification to the commission.

177 (b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax

178 credit is allowed under this section by:

179 (i) providing proof to the board in the form the board requires by rule;

180 (ii) receiving a written statement from the board acknowledging receipt of the proof;

181 and

182 (iii) retaining the written statement described in Subsection (3)(b)(ii).

183 (c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).

184 (4) Except as provided by Subsection (5), the tax credit under this section is allowed

185 only:

186 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain

187 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year

188 by the taxpayer;

189 (b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is  
190 purchased or a vehicle described in Subsection (2)(d) is leased; and

191 (c) once per vehicle.

192 (5) A taxpayer may not assign a tax credit under this section to another person.

193 (6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the  
194 taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain  
195 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year,  
196 the amount of the tax credit exceeding the tax liability may be carried forward for a period that  
197 does not exceed the next five taxable years.

198 (7) In accordance with any rules prescribed by the commission under Subsection (8),  
199 the Division of Finance shall transfer at least annually from the General Fund into the  
200 Education Fund the amount by which the amount of tax credit claimed under this section for a  
201 fiscal year exceeds \$500,000.

202 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
203 commission may make rules for making a transfer from the General Fund into the Education  
204 Fund as required by Subsection (7).

205 Section 3. Section **59-7-610** is amended to read:

206 **59-7-610. Recycling market development zones tax credit.**

207 (1) For taxable years beginning on or after January 1, 1996, a business operating in a  
208 recycling market development zone as defined in Section 63N-2-402 may claim a tax credit as  
209 provided in this section.

210 (a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price  
211 paid for machinery and equipment used directly in:

212 (A) commercial composting; or

213 (B) manufacturing facilities or plant units that:

214 (I) manufacture, process, compound, or produce recycled items of tangible personal  
215 property for sale; or

216 (II) reduce or reuse postconsumer waste material.

217 (ii) The Governor's Office of Economic Development shall certify that the machinery  
218 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling

219 process:

220 (A) on a form provided by the commission; and

221 (B) before a taxpayer is allowed a tax credit under this section.

222 (iii) The Governor's Office of Economic Development shall provide a taxpayer seeking

223 to claim a tax credit under this section with a copy of the form described in Subsection

224 (1)(a)(ii).

225 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form

226 received under Subsection (1)(a)(iii).

227 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures

228 up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made

229 by the taxpayer for establishing and operating recycling or composting technology in Utah,

230 with an annual maximum tax credit of \$2,000.

231 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%

232 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of

233 purchase prior to claiming the tax credit authorized by this section.

234 (3) (a) Any tax credit not used for the taxable year in which the purchase price on

235 composting or recycling machinery and equipment was paid may be carried over for credit

236 against the business' income taxes in the three succeeding taxable years until the total tax credit

237 amount is used.

238 (b) Tax credits not claimed by a business on the business' state income tax return

239 within three years are forfeited.

240 (4) The commission shall make rules governing what information shall be filed with

241 the commission to verify the entitlement to and amount of a tax credit.

242 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after

243 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection

244 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under

245 Section 63N-2-213.

246 (b) For a taxable year other than a taxable year during which the taxpayer may not

247 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim

248 or carry forward a tax credit described in Subsection (1)(a):

249 (i) if the taxpayer may claim or carry forward the tax credit in accordance with



250 Subsections (1) and (2); and

251 (ii) subject to Subsections (3) and (4).

252 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January  
253 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year  
254 during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

255 (7) A taxpayer may not claim or carry forward a tax credit available under this section  
256 for a taxable year during which the taxpayer has claimed the targeted business income tax  
257 credit available under Section [~~63N-2-305~~] 59-7-624.

258 Section 4. Section **59-7-614 (Effective 01/01/19)** is amended to read:

259 **59-7-614 (Effective 01/01/19). Renewable energy systems tax credits -- Definitions**

260 **-- Certification -- Rulemaking authority.**

261 (1) As used in this section:

262 (a) (i) "Active solar system" means a system of equipment that is capable of:

263 (A) collecting and converting incident solar radiation into thermal, mechanical, or  
264 electrical energy; and

265 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate  
266 apparatus to storage or to the point of use.

267 (ii) "Active solar system" includes water heating, space heating or cooling, and  
268 electrical or mechanical energy generation.

269 (b) "Biomass system" means a system of apparatus and equipment for use in:

270 (i) converting material into biomass energy, as defined in Section 59-12-102; and

271 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

272 (c) "Commercial energy system" means a system that is:

273 (i) (A) an active solar system;

274 (B) a biomass system;

275 (C) a direct use geothermal system;

276 (D) a geothermal electricity system;

277 (E) a geothermal heat pump system;

278 (F) a hydroenergy system;

279 (G) a passive solar system; or

280 (H) a wind system;

- 281 (ii) located in the state; and
- 282 (iii) used:
- 283 (A) to supply energy to a commercial unit; or
- 284 (B) as a commercial enterprise.
- 285 (d) "Commercial enterprise" means an entity, the purpose of which is to produce
- 286 electrical, mechanical, or thermal energy for sale from a commercial energy system.
- 287 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact
- 288 business.
- 289 (ii) Notwithstanding Subsection (1)(e)(i):
- 290 (A) with respect to an active solar system used for agricultural water pumping or a
- 291 wind system, each individual energy generating device is considered to be a commercial unit;
- 292 or
- 293 (B) if an energy system is the building or structure that an entity uses to transact
- 294 business, a commercial unit is the complete energy system itself.
- 295 (f) "Direct use geothermal system" means a system of apparatus and equipment that
- 296 enables the direct use of geothermal energy to meet energy needs, including heating a building,
- 297 an industrial process, and aquaculture.
- 298 (g) "Geothermal electricity" means energy that is:
- 299 (i) contained in heat that continuously flows outward from the earth; and
- 300 (ii) used as a sole source of energy to produce electricity.
- 301 (h) "Geothermal energy" means energy generated by heat that is contained in the earth.
- 302 (i) "Geothermal heat pump system" means a system of apparatus and equipment that:
- 303 (i) enables the use of thermal properties contained in the earth at temperatures well
- 304 below 100 degrees Fahrenheit; and
- 305 (ii) helps meet heating and cooling needs of a structure.
- 306 (j) "Hydroenergy system" means a system of apparatus and equipment that is capable
- 307 of:
- 308 (i) intercepting and converting kinetic water energy into electrical or mechanical
- 309 energy; and
- 310 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- 311 (k) "Office" means the Office of Energy Development created in Section 63M-4-401.

(l) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(m) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(n) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(o) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(p) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(q) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed \$2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and

(v) for a system installed on or after January 1, 2024, \$0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy

405 system as a commercial enterprise;

406 (iv) the commercial energy system is completed and placed in service on or after

407 January 1, 2007; and

408 (v) the taxpayer obtains a written certification from the office in accordance with

409 Subsection (7).

410 (b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the

411 reasonable costs of the commercial energy system.

412 (ii) A tax credit under this Subsection (4) may include installation costs.

413 (iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in

414 which the commercial energy system is completed and placed in service.

415 (iv) A tax credit under this Subsection (4) may not be carried forward or carried back.

416 (v) The total amount of tax credit a taxpayer may claim under this Subsection (4) may

417 not exceed \$50,000 per commercial unit.

418 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a

419 commercial energy system installed on a commercial unit may claim a tax credit under this

420 Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax

421 credit.

422 (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this

423 Subsection (4) only the principal recovery portion of the lease payments.

424 (iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this

425 Subsection (4) for a period that does not exceed seven taxable years after the date the lease

426 begins, as stated in the lease agreement.

427 (5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a

428 refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

429 (i) the commercial energy system uses wind, geothermal electricity, or biomass

430 equipment capable of producing a total of 660 or more kilowatts of electricity;

431 (ii) (A) the commercial energy system supplies all or part of the energy required by

432 commercial units owned or used by the taxpayer; or

433 (B) the taxpayer sells all or part of the energy produced by the commercial energy

434 system as a commercial enterprise;

435 (iii) the commercial energy system is completed and placed in service on or after

436 January 1, 2007; and  
437 (iv) the taxpayer obtains a written certification from the office in accordance with  
438 Subsection (7).  
439 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)  
440 is equal to the product of:  
441 (A) 0.35 cents; and  
442 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.  
443 (ii) A tax credit under this Subsection (5) may be claimed for production occurring  
444 during a period of 48 months beginning with the month in which the commercial energy  
445 system is placed in commercial service.  
446 (iii) A tax credit under this Subsection (5) may not be carried forward or carried back.  
447 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial  
448 unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor  
449 irrevocably elects not to claim the tax credit.  
450 (6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a  
451 refundable tax credit as provided in this Subsection (6) if:  
452 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of  
453 producing a total of 660 or more kilowatts of electricity;  
454 (ii) (A) the commercial energy system supplies all or part of the energy required by  
455 commercial units owned or used by the taxpayer; or  
456 (B) the taxpayer sells all or part of the energy produced by the commercial energy  
457 system as a commercial enterprise;  
458 (iii) the taxpayer does not claim a tax credit under Subsection (4);  
459 (iv) the commercial energy system is completed and placed in service on or after  
460 January 1, 2015; and  
461 (v) the taxpayer obtains a written certification from the office in accordance with  
462 Subsection (7).  
463 (b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)  
464 is equal to the product of:  
465 (A) 0.35 cents; and  
466 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission a list that includes:

(i) the name of each taxpayer to which the office issued a written certification; and

(ii) for each taxpayer, the amount of the tax credit listed on the written certification.



(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 5. Section **59-7-614.10** is amended to read:

**59-7-614.10. Nonrefundable enterprise zone tax credit.**

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section ~~[63N-2-305]~~ 59-7-624.

(6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

529 (C) the amount of tax credits awarded for rehabilitating a building in each development  
530 zone;

531 (D) the amount of tax credits awarded for investing in a plant, equipment, or other  
532 depreciable property in each development zone;

533 (E) the information related to the tax credit contained in the office's latest report under  
534 Section 63N-1-301; and

535 (F) any other information that the Office of the Legislative Fiscal Analyst requests.

536 (ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall  
537 redact information that identifies a recipient of a tax credit under this section.

538 (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting  
539 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a  
540 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to  
541 provide the information described in Subsection (6)(b)(i) in the aggregate for all development  
542 zones that receive the tax credit under this section.

543 (c) As part of the study required by this Subsection (6), the Office of the Legislative  
544 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and  
545 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the  
546 office under Subsection (6)(b).

547 (d) The Revenue and Taxation Interim Committee shall ensure that the  
548 recommendations described in Subsection (6)(a) include an evaluation of:

- 549 (i) the cost of the tax credit to the state;  
550 (ii) the purpose and effectiveness of the tax credit; and  
551 (iii) the extent to which the state benefits from the tax credit.

552 Section 6. Section **59-7-624** is enacted to read:

553 **59-7-624. Targeted business income tax credit.**

554 (1) As used in this section, "business applicant" means the same as that term is defined  
555 in Section 63N-2-302.

556 (2) A business applicant that is certified and issued a targeted business income tax  
557 eligibility certificate by the office under Section 63N-2-304 may claim a refundable tax credit  
558 in the amount specified on the targeted business income tax eligibility certificate.

559 (3) For a taxable year for which a business applicant claims a targeted business income

tax credit available under this section, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, 59-10-1007, or 63N-2-213.

Section 7. Section **59-10-137** is amended to read:

**59-10-137. Review of credits allowed under this chapter.**

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

- 591 (iii) Section 59-10-1015;
- 592 (iv) Section 59-10-1025;
- 593 (v) Section 59-10-1027;
- 594 (vi) Section 59-10-1031;
- 595 (vii) Section 59-10-1032;
- 596 (viii) Section 59-10-1035;
- 597 (ix) Section 59-10-1104;
- 598 (x) Section 59-10-1105; and
- 599 (xi) Section 59-10-1108.

600 (b) On or before November 30, 2018, and every three years after 2018, the committee  
601 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
602 following sections:

- 603 (i) Section 59-10-1005;
- 604 (ii) Section 59-10-1006;
- 605 (iii) Section 59-10-1012;
- 606 (iv) Section 59-10-1013;
- 607 (v) Section 59-10-1022;
- 608 (vi) Section 59-10-1023;
- 609 (vii) Section 59-10-1028;
- 610 (viii) Section 59-10-1034;
- 611 (ix) Section 59-10-1037; [~~and~~]
- 612 (x) Section 59-10-1107[:]; and
- 613 (xi) Section 59-10-1112.

614 (c) On or before November 30, 2019, and every three years after 2019, the committee  
615 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
616 following sections:

- 617 (i) Section 59-10-1007;
- 618 (ii) Section 59-10-1009;
- 619 (iii) Section 59-10-1014;
- 620 (iv) Section 59-10-1017;
- 621 (v) Section 59-10-1018;

- (vi) Section 59-10-1019;
- (vii) Section 59-10-1024;
- (viii) Section 59-10-1029;
- (ix) Section 59-10-1030;
- (x) Section 59-10-1033;
- (xi) Section 59-10-1036;
- (xii) Section 59-10-1106; and
- (xiii) Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 8. Section **59-10-210** is amended to read:

**59-10-210. Fiduciary adjustments.**

(1) A share of the fiduciary adjustments described in Subsection (2) shall be added to or subtracted from unadjusted income:

(a) of:

(i) a resident or nonresident estate or trust; or

(ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

(b) as provided in this section.

(2) For purposes of Subsection (1), the fiduciary adjustments are the following amounts:

(a) the additions to and subtractions from unadjusted income of a resident or nonresident estate or trust required by Section 59-10-202; and

(b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

(i) Section 59-6-102;

(ii) Part 10, Nonrefundable Tax Credit Act;

(iii) Part 11, Refundable Tax Credit Act;

(iv) Section 59-13-202;

(v) Section 63N-2-213; or

(vi) Section [~~63N-2-305~~] 59-10-1112.

(3) (a) The respective shares of an estate or trust and its beneficiaries, including for the purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.

(b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in proportion to that beneficiary's share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.

(c) After making the allocations required by Subsections (3)(a) and (b), any balance of the fiduciary adjustments shall be allocated to the estate or trust.

(4) (a) The commission shall allow a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

Section 9. Section **59-10-1007** is amended to read:

**59-10-1007. Recycling market development zones tax credit.**

(1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim a nonrefundable tax credit as provided in this section.

(a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a claimant, estate, or trust is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried forward against the

claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or trust's tax return under this chapter within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(b) For a taxable year other than a taxable year during which the claimant, estate, or trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the claimant, estate, or trust may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust has claimed the targeted business income tax credit available under Section ~~[63N-2-305]~~ 59-10-1112.

Section 10. Section **59-10-1009** is amended to read:

**59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.**

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(c) "OEM vehicle" means the same as that term is defined in Section 19-1-402.



(d) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(e) "Qualifying electric motorcycle" means a vehicle that:

(i) has a seat or saddle for the use of the rider;

(ii) is designed to travel with not more than three wheels in contact with the ground;

(iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

(iv) is not fueled by natural gas;

(v) is fueled by electricity only; and

(vi) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(e)(v).

(f) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity;

and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in

Subsection (1)(f)(iii).

(g) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

(2) For a taxable year beginning on or after January 1, 2015, but beginning on or before December 31, 2016, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

777 (A) \$1,500; or  
778 (B) 35% of the purchase price of the vehicle; or  
779 (ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is  
780 registered in this state, \$1,000;  
781 (b) for the original purchase of a new vehicle fueled by natural gas or propane that is  
782 registered in this state, the lesser of:  
783 (i) \$1,500; or  
784 (ii) 35% of the purchase price of the vehicle;  
785 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
786 this state, the lesser of:  
787 (i) \$750; or  
788 (ii) 35% of the purchase price of the vehicle; and  
789 (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal  
790 to the product of:  
791 (i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to  
792 claim under Subsection (2)(a), (b), or (c) had the claimant, estate, or trust purchased the  
793 vehicle, except that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or  
794 (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease; and  
795 (ii) a percentage calculated by:  
796 (A) determining the difference between the value of the vehicle at the beginning of the  
797 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
798 stated in the lease agreement; and  
799 (B) dividing the difference determined under Subsection (2)(d)(ii)(A) by the value of  
800 the vehicle at the beginning of the lease, as stated in the lease agreement.  
801 (3) (a) The board shall:  
802 (i) determine the amount of tax credit a claimant, estate, or trust is allowed under this  
803 section; ~~and~~  
804 (ii) provide the claimant, estate, or trust with a written certification of the amount of  
805 tax credit the claimant, estate, or trust is allowed under this section~~[-]; and~~  
806 (iii) provide a duplicate copy of the written certification to the commission.  
807 (b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item

808 for which a tax credit is allowed under this section by:

809 (i) providing proof to the board in the form the board requires by rule;

810 (ii) receiving a written statement from the board acknowledging receipt of the proof;

811 and

812 (iii) retaining the written statement described in Subsection (3)(b)(ii).

813 (c) A claimant, estate, or trust shall retain the written certification described in

814 Subsection (3)(a)(ii).

815 (4) Except as provided by Subsection (5), the tax credit under this section is allowed

816 only:

817 (a) against a tax owed under this chapter in the taxable year by the claimant, estate, or  
818 trust;

819 (b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is  
820 purchased or a vehicle described in Subsection (2)(d) is leased; and

821 (c) once per vehicle.

822 (5) A claimant, estate, or trust may not assign a tax credit under this section to another  
823 person.

824 (6) If the amount of a tax credit claimed by a claimant, estate, or trust under this  
825 section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable  
826 year, the amount of the tax credit exceeding the tax liability may be carried forward for a period  
827 that does not exceed the next five taxable years.

828 (7) In accordance with any rules prescribed by the commission under Subsection (8),  
829 the Division of Finance shall transfer at least annually from the General Fund into the  
830 Education Fund the amount by which the amount of tax credit claimed under this section for a  
831 fiscal year exceeds \$500,000.

832 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
833 commission may make rules for making a transfer from the General Fund into the Education  
834 Fund as required by Subsection (7).

835 Section 11. Section **59-10-1014 (Effective 01/01/19)** is amended to read:

836 **59-10-1014 (Effective 01/01/19). Nonrefundable renewable energy systems tax**  
837 **credits -- Definitions -- Certification -- Rulemaking authority.**

838 (1) As used in this section:

839 (a) (i) "Active solar system" means a system of equipment that is capable of:  
840 (A) collecting and converting incident solar radiation into thermal, mechanical, or  
841 electrical energy; and  
842 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate  
843 apparatus to storage or to the point of use.  
844 (ii) "Active solar system" includes water heating, space heating or cooling, and  
845 electrical or mechanical energy generation.  
846 (b) "Biomass system" means a system of apparatus and equipment for use in:  
847 (i) converting material into biomass energy, as defined in Section 59-12-102; and  
848 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.  
849 (c) "Direct use geothermal system" means a system of apparatus and equipment that  
850 enables the direct use of geothermal energy to meet energy needs, including heating a building,  
851 an industrial process, and aquaculture.  
852 (d) "Geothermal electricity" means energy that is:  
853 (i) contained in heat that continuously flows outward from the earth; and  
854 (ii) used as a sole source of energy to produce electricity.  
855 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.  
856 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:  
857 (i) enables the use of thermal properties contained in the earth at temperatures well  
858 below 100 degrees Fahrenheit; and  
859 (ii) helps meet heating and cooling needs of a structure.  
860 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable  
861 of:  
862 (i) intercepting and converting kinetic water energy into electrical or mechanical  
863 energy; and  
864 (ii) transferring this form of energy by separate apparatus to the point of use or storage.  
865 (h) "Office" means the Office of Energy Development created in Section 63M-4-401.  
866 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of  
867 a building and its operable components to provide for collection, storage, and distribution of  
868 heating or cooling during the appropriate times of the year by utilizing the climate resources  
869 available at the site.

870 (ii) "Passive solar system" includes those portions and components of a building that  
871 are expressly designed and required for the collection, storage, and distribution of solar energy.

872 (j) "Photovoltaic system" means an active solar system that generates electricity from  
873 sunlight.

874 (k) (i) "Principal recovery portion" means the portion of a lease payment that  
875 constitutes the cost a person incurs in acquiring a residential energy system.

876 (ii) "Principal recovery portion" does not include:

877 (A) an interest charge; or

878 (B) a maintenance expense.

879 (l) "Residential energy system" means the following used to supply energy to or for a  
880 residential unit:

881 (i) an active solar system;

882 (ii) a biomass system;

883 (iii) a direct use geothermal system;

884 (iv) a geothermal heat pump system;

885 (v) a hydroenergy system;

886 (vi) a passive solar system; or

887 (vii) a wind system.

888 (m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling  
889 unit that:

890 (A) is located in the state; and

891 (B) serves as a dwelling for a person, group of persons, or a family.

892 (ii) "Residential unit" does not include property subject to a fee under:

893 (A) Section 59-2-405;

894 (B) Section 59-2-405.1;

895 (C) Section 59-2-405.2;

896 (D) Section 59-2-405.3; or

897 (E) Section 72-10-110.5.

898 (n) "Wind system" means a system of apparatus and equipment that is capable of:

899 (i) intercepting and converting wind energy into mechanical or electrical energy; and

900 (ii) transferring these forms of energy by a separate apparatus to the point of use or

901 storage.

902 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in  
903 this section against a tax due under this chapter for a taxable year.

904 (3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust  
905 may claim a nonrefundable tax credit under this section with respect to a residential unit the  
906 claimant, estate, or trust owns or uses if:

907 (a) the claimant, estate, or trust:

908 (i) purchases and completes a residential energy system to supply all or part of the  
909 energy required for the residential unit; or

910 (ii) participates in the financing of a residential energy system to supply all or part of  
911 the energy required for the residential unit;

912 (b) the residential energy system is installed on or after January 1, 2007; and

913 (c) the claimant, estate, or trust obtains a written certification from the office in  
914 accordance with Subsection (5).

915 (4) (a) For a residential energy system, other than a photovoltaic system, the tax credit  
916 described in this section is equal to the lesser of:

917 (i) 25% of the reasonable costs, including installation costs, of each residential energy  
918 system installed with respect to each residential unit the claimant, estate, or trust owns or uses;  
919 and

920 (ii) \$2,000.

921 (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic  
922 system, the tax credit described in this section is equal to the lesser of:

923 (i) 25% of the reasonable costs, including installation costs, of each system installed  
924 with respect to each residential unit the claimant, estate, or trust owns or uses; or

925 (ii) (A) for a system installed on or after January 1, 2007, but on or before December  
926 31, 2017, \$2,000;

927 (B) for a system installed on or after January 1, 2018, but on or before December 31,  
928 2020, \$1,600;

929 (C) for a system installed on or after January 1, 2019, but on or before December 31,  
930 2021, \$1,200;

931 (D) for a system installed on or after January 1, 2020, but on or before December 31,

932 2022, \$800;

933 (E) for a system installed on or after January 1, 2021, but on or before December 31,  
934 2023, \$400; and

935 (F) for a system installed on or after January 1, 2024, \$0.

936 (c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or  
937 trust may claim and list that amount on the written certification that the office issues under  
938 Subsection (5).

939 (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the  
940 written certification that the office issues under Subsection (5).

941 (d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the  
942 taxable year in which the residential energy system is installed.

943 (e) If the amount of a tax credit listed on the written certification exceeds a claimant's,  
944 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust  
945 may carry forward the amount of the tax credit exceeding the liability for a period that does not  
946 exceed the next four taxable years.

947 (f) A claimant, estate, or trust may claim a tax credit with respect to additional  
948 residential energy systems or parts of residential energy systems for a subsequent taxable year  
949 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per  
950 residential unit.

951 (g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a  
952 residential energy system installed on a residential unit may claim a tax credit under Subsection  
953 (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax  
954 credit.

955 (ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential  
956 energy system may claim as a tax credit under Subsection (3) only the principal recovery  
957 portion of the lease payments.

958 (iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a  
959 residential energy system may claim a tax credit under Subsection (3) for a period that does not  
960 exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

961 (h) If a claimant, estate, or trust sells a residential unit to another person before the  
962 claimant, estate, or trust claims the tax credit under Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission a list that includes:



(i) the name of each claimant, estate, and trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of the tax credit listed on the written certification.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 12. Section **59-10-1037** is amended to read:

**59-10-1037. Nonrefundable enterprise zone tax credit.**

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section ~~63N-2-305~~ 59-10-1112.

(6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by

1025 this Subsection (6), the office shall provide by electronic means the following information, if  
1026 available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

1027 (A) the amount of tax credits provided in each development zone;

1028 (B) the number of new full-time employee positions reported to obtain tax credits in  
1029 each development zone;

1030 (C) the amount of tax credits awarded for rehabilitating a building in each development  
1031 zone;

1032 (D) the amount of tax credits awarded for investing in a plant, equipment, or other  
1033 depreciable property in each development zone;

1034 (E) the information related to the tax credit contained in the office's latest report under  
1035 Section 63N-1-301; and

1036 (F) other information that the Office of the Legislative Fiscal Analyst requests.

1037 (ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall  
1038 redact information that identifies a recipient of a tax credit under this section.

1039 (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting  
1040 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a  
1041 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to  
1042 provide the information described in Subsection (6)(b)(i) in the aggregate for all development  
1043 zones that receive the tax credit under this section.

1044 (c) As part of the study required by this Subsection (6), the Office of the Legislative  
1045 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and  
1046 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the  
1047 office under Subsection (6)(b).

1048 (d) The Revenue and Taxation Interim Committee shall ensure that the  
1049 recommendations described in Subsection (6)(a) include an evaluation of:

1050 (i) the cost of the tax credit to the state;

1051 (ii) the purpose and effectiveness of the tax credit; and

1052 (iii) the extent to which the state benefits from the tax credit.

1053 Section 13. Section **59-10-1112** is enacted to read:

1054 **59-10-1112. Targeted business income tax credit.**

1055 (1) As used in this section, "business applicant" means the same as that term is defined

1056 in Section 63N-2-302.

1057 (2) A business applicant that is certified and issued a targeted business income tax  
1058 eligibility certificate by the office under Section 63N-2-304 may claim a refundable tax credit  
1059 in the amount specified on the targeted business income tax eligibility certificate.

1060 (3) For a taxable year for which a business applicant claims a targeted business income  
1061 tax credit available under this section, the business applicant may not claim or carry forward a  
1062 tax credit available under Section 59-7-610, 59-10-1007, or 63N-2-213.

1063 Section 14. Section **63N-2-213** is amended to read:

1064 **63N-2-213. State tax credits.**

1065 (1) The office shall certify a business entity's eligibility for a tax credit described in this  
1066 section.

1067 (2) A business entity seeking to receive a tax credit as provided in this section shall  
1068 provide the office with:

1069 (a) an application for a tax credit certificate in a form approved by the office, including  
1070 a certification, by an officer of the business entity, of a signature on the application; and

1071 (b) documentation that demonstrates the business entity has met the requirements to  
1072 receive the tax credit.

1073 (3) If, after review of an application and documentation provided by a business entity  
1074 as described in Subsection (2), the office determines that the application and documentation are  
1075 inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

1076 (a) deny the tax credit; or

1077 (b) inform the business entity that the application or documentation was inadequate  
1078 and ask the business entity to submit additional documentation.

1079 (4) If, after review of an application and documentation provided by a business entity  
1080 as described in Subsection (2), the office determines that the application and documentation  
1081 provide reasonable justification for authorizing a tax credit, the office shall:

1082 (a) determine the amount of the tax credit to be granted to the business entity;

1083 (b) issue a tax credit certificate to the business entity; and

1084 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

1085 (5) A business entity may not claim a tax credit under this section unless the business  
1086 entity has a tax credit certificate issued by the office.

1087 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1088 office shall make rules describing:

1089 (a) the form and content of an application for a tax credit under this section;

1090 (b) the documentation requirements for a business entity to receive a tax credit  
1091 certificate under this section; and

1092 (c) administration of the program, including relevant timelines and deadlines.

1093 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements  
1094 of this part are met, the following nonrefundable tax credits against a tax under Title 59,  
1095 Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income  
1096 Tax Act, are applicable in an enterprise zone:

1097 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time  
1098 employee position created within the enterprise zone;

1099 (b) an additional \$500 tax credit may be claimed if the new full-time employee position  
1100 created within the enterprise zone pays at least 125% of:

1101 (i) the county average monthly nonagricultural payroll wage for the respective industry  
1102 as determined by the Department of Workforce Services; or

1103 (ii) if the county average monthly nonagricultural payroll wage is not available for the  
1104 respective industry, the total average monthly nonagricultural payroll wage in the respective  
1105 county where the enterprise zone is located;

1106 (c) an additional tax credit of \$750 may be claimed if the new full-time employee  
1107 position created within the enterprise zone is in a business entity that adds value to agricultural  
1108 commodities through manufacturing or processing;

1109 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each  
1110 new full-time employee position created within the enterprise zone that is filled by an  
1111 employee who is insured under an employer-sponsored health insurance program if the  
1112 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

1113 (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the  
1114 enterprise zone that has been vacant for two years or more; and

1115 (f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%  
1116 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable  
1117 property.

1118 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax  
1119 credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30  
1120 full-time employee positions in a taxable year.

1121 (b) A business entity that received a tax credit for one or more new full-time employee  
1122 positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for  
1123 a new full-time employee position in a subsequent taxable year under Subsections (7)(a)  
1124 through (d) if:

1125 (i) the business entity has created a new full-time position within the enterprise zone;  
1126 and

1127 (ii) the total number of full-time employee positions at the business entity at any point  
1128 during the tax year for which the tax credit is being claimed is greater than the highest number  
1129 of full-time employee positions that existed at the business entity in the previous three taxable  
1130 years.

1131 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)  
1132 through (d).

1133 (9) If the amount of a tax credit under this section exceeds a business entity's tax  
1134 liability under this chapter for a taxable year, the business entity may carry forward the amount  
1135 of the tax credit exceeding the liability for a period that does not exceed the next three taxable  
1136 years.

1137 (10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business  
1138 entity primarily engaged in retail trade or by a public utilities business.

1139 (11) A business entity that has no employees:

1140 (a) may not claim tax credits under Subsections (7)(a) through (d); and

1141 (b) may claim tax credits under Subsections (7)(e) through (f).

1142 (12) A business entity may not claim or carry forward a tax credit available under this  
1143 part for a taxable year during which the business entity has claimed the targeted business  
1144 income tax credit available under Section ~~[63N-2-305]~~ 63N-2-304.

1145 (13) (a) On or before November 30, 2018, and every three years after 2018, the  
1146 Revenue and Taxation Interim Committee shall review the tax credits provided by this section  
1147 and make recommendations concerning whether the tax credits should be continued, modified,  
1148 or repealed.

1149 (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation  
1150 Interim Committee shall:

- 1151 (i) schedule time on at least one committee agenda to conduct the review;  
1152 (ii) invite state agencies, individuals, and organizations concerned with the credits  
1153 under review to provide testimony;  
1154 (iii) ensure that the recommendations described in this section include an evaluation of:  
1155 (A) the cost of the tax credits to the state;  
1156 (B) the purpose and effectiveness of the tax credits; and  
1157 (C) the extent to which the state benefits from the tax credits; and  
1158 (iv) undertake other review efforts as determined by the chairs of the Revenue and  
1159 Taxation Interim Committee.

1160 Section 15. Section **63N-2-304** is amended to read:

1161 **63N-2-304. Application for targeted business income tax credit.**

1162 (1) (a) [~~For a taxable year beginning on or after January 1, 2017, a~~ A business  
1163 applicant may apply to the office for a targeted business income tax credit eligibility certificate  
1164 under this part if the business applicant:

- 1165 (i) is located in:  
1166 (A) an enterprise zone; and  
1167 (B) a county with a population of less than 25,000;  
1168 (ii) meets the requirements of Section 63N-2-212;  
1169 (iii) provides a community investment project within the enterprise zone; and  
1170 (iv) is not engaged in the following:  
1171 (A) construction;  
1172 (B) retail trade; or  
1173 (C) public utility activities.

1174 (b) For a taxable year for which a business applicant claims a targeted business income  
1175 tax credit available under this part, the business applicant may not claim or carry forward a tax  
1176 credit available under Section 59-7-610, 59-10-1007, or 63N-2-213.

1177 (2) (a) A business applicant seeking to claim a targeted business income tax credit  
1178 under this part shall submit an application to the office by no later than June 1 of the taxable  
1179 year in which the business applicant is seeking to claim the targeted business income tax credit.

1180 (b) The application described in Subsection (2)(a) shall include:  
1181 (i) any documentation required by the office to demonstrate that the business applicant  
1182 meets the requirements of Subsection (1);  
1183 (ii) a plan developed by the business applicant that describes:  
1184 (A) if the community investment project includes significant new employment, the  
1185 projected number and anticipated wage level of the jobs that the business applicant plans to  
1186 create as the basis for qualifying for a targeted business income tax credit;  
1187 (B) if the community investment project includes significant new capital development,  
1188 the capital development the business applicant plans to make as the basis for qualifying for a  
1189 targeted business income tax credit;  
1190 (C) how the business applicant's plan coordinates with the goals of the enterprise zone  
1191 in which the business applicant is providing a community investment project;  
1192 (D) how the business applicant's plan coordinates with the overall economic  
1193 development goals of the county or municipality in which the business applicant is providing a  
1194 community investment project;  
1195 (E) any matching funds that will be used for the community investment project;  
1196 (F) how any targeted business income tax credit incentives that were awarded in a  
1197 previous year have been used for the community investment project by the business applicant;  
1198 and  
1199 (G) the requested amount of the targeted business income tax credit; and  
1200 (iii) any additional information required by the office.  
1201 (3) (a) The office shall:  
1202 (i) evaluate an application filed under Subsection (2);  
1203 (ii) determine whether the business applicant is potentially eligible for a targeted  
1204 business income tax credit; and  
1205 (iii) if the business applicant is potentially eligible for a targeted business income tax  
1206 credit, determine performance benchmarks and the deadline for meeting those benchmarks that  
1207 the business applicant must achieve before the office awards a targeted business income tax  
1208 credit to the business applicant.  
1209 (b) If the office determines that the business applicant is potentially eligible for a  
1210 targeted business income tax credit, the office shall:

1211 (i) notify the business applicant that the business applicant is eligible for a targeted  
1212 business income tax credit if the business applicant meets the performance benchmarks by the  
1213 deadline as determined by the office as described in Subsection (3)(a)(iii);

1214 (ii) notify the business applicant of the potential amount of the targeted business  
1215 income tax credit that may be awarded to the business applicant, which amount may be no  
1216 more than \$100,000 for the business applicant in a taxable year; and

1217 (iii) monitor a business applicant to ensure compliance with this section and to  
1218 measure the business applicant's progress in meeting performance benchmarks.

1219 (c) If the business applicant provides evidence to the office, in a form prescribed by the  
1220 office, that the business applicant has achieved the performance benchmarks by the deadline as  
1221 determined by the office as described in Subsection (3)(a)(iii), the office shall:

1222 (i) certify that the business applicant is eligible for a targeted business income tax  
1223 credit;

1224 (ii) issue a targeted business income tax credit eligibility certificate to the business  
1225 applicant in accordance with ~~[Section 63N-2-305, and]~~;

1226 (A) for a taxpayer that files a return under Title 59, Chapter 7, Corporate Franchise and  
1227 Income Taxes, Section 59-7-624; or

1228 (B) for a taxpayer that files a return under Title 59, Chapter 10, Individual Income Tax  
1229 Act, Section 59-10-1112; and

1230 (iii) provide a duplicate copy of the targeted business income tax credit eligibility  
1231 certificate to the State Tax Commission.

1232 (4) The total amount of the targeted business income tax credit eligibility certificates  
1233 that the office issues under this part for all business applicants may not exceed \$300,000 in any  
1234 fiscal year.

1235 (5) (a) A business applicant shall retain the targeted business income tax credit  
1236 eligibility certificate as issued under Subsection (3) for the same time period that a person is  
1237 required to keep books and records under Section 59-1-1406.

1238 (b) The office may audit a business applicant to ensure:

1239 (i) eligibility for a targeted business income tax credit; and

1240 (ii) compliance with this section.

1241 Section 16. **Repealer.**



1242 This bill repeals:  
1243 Section **63M-3-101, Title.**  
1244 Section **63M-3-102, Legislative findings -- Purpose of act.**  
1245 Section **63M-3-103, Definitions.**  
1246 Section **63M-3-201, Contract for pilot plant -- Contents -- Financing --**  
1247 **Termination of contract.**  
1248 Section **63M-3-202, Intellectual properties discovered or developed -- Ownership --**  
1249 **Patenting -- Licensing.**  
1250 Section **63N-2-305, Targeted business income tax credit structure -- Revenue and**  
1251 **Taxation Interim Committee study.**  
1252 Section 17. **Retrospective operation.**  
1253 This bill has retrospective operation for a taxable year beginning on or after January 1,  
1254 2019.